

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

JAMES CURRY, JR.

PLAINTIFF

V.

CIVIL ACTION NO. 1:20-CV-169-SA-DAS

NORTH MISSISSIPPI MEDICAL DEPARTMENT P.A.

DEFENDANT

ORDER

On July 22, 2020, James Curry, proceeding *pro se*, initiated this action by filing his Complaint [1] against North Mississippi Medical Department P.A. He also filed a Motion [2] requesting that he be permitted to proceed *in forma pauperis* in this cause.

On February 24, 2021, Magistrate Judge Sanders entered a Report and Recommendation [5], wherein he recommends “that the plaintiff’s application to proceed in forma pauperis be DENIED and his complaint against the North Mississippi Medical Center be DISMISSED for lack of jurisdiction and failure to state a claim. The complaint should be dismissed pursuant to the court’s order banning the filing of any in forma pauperis action without the prior permission of one of the judges in this district.” [5], p. 8. In reaching this conclusion, the Report and Recommendation [5] clearly and explicitly sets forth the deficiencies in Curry’s Complaint [1], in addition to explaining that, due to his frivolous filings in the past, he must obtain permission from one of the Judges of this Court prior to initiating a new case.

On March 18, 2021, Curry filed an Objection [7] to the Report and Recommendation [5]. Although the Objection [7] appears to provide an explanation of the purportedly wrongful actions of the Defendant, including providing false information on his medical records, Curry does not address the deficiencies noted by Magistrate Judge Sanders in the Report and Recommendation [5]. For example, he provides no explanation as to the basis for this Court’s jurisdiction over this action nor does he cite any authority pursuant to which he may be entitled to relief. Finally, he

does not address the “three strikes” rule referenced by Magistrate Judge Sanders in the Report and Recommendation.

As specifically noted by Magistrate Judge Sanders:

Curry’s Complaint fails to include allegations to support federal question jurisdiction. As [it] related to False Claims Act, the plaintiff has alleged no facts to support any claim. This Act does not address allegedly false statements by a private entity but fraudulent financial claims made against the United States Government. The Freedom of Information Act is also inapplicable to this action as that Act creates a framework by which the United States can be compelled to produce certain government data and documents. The Administrative Procedures Act allows for and governs the rights of an aggrieved person to seek judicial review when harmed by the decision of an agency of the federal government. There are no allegations of any action by any federal agency or any final decision by such an agency. Nor does Curry name any state statute that he is claims is unconstitutional. Curry’s complaint, therefore, does not contain allegations establishing any federal question jurisdiction.

Finally, the plaintiff has failed to allege facts that show his citizenship is different than that of the defendant. . . Curry has not included any allegations of citizenship in his complaint, and in his cover sheet marked himself as a citizen of this state and the defendant as incorporated in or having its principal place of business in this state.

[5], p. 4-5 (internal citations omitted). Curry’s Objection [7] fails to rectify, or even address, these jurisdictional shortcomings. Additionally, Curry provides no explanation as to how this case is excluded from the “three strikes” rule with which this Court has previously ordered that he comply. In other words, although Curry has filed an Objection [7], he fails to address any of the insufficiencies noted by Magistrate Judge Sanders in the Report and Recommendation [5].

Having reviewed the Report and Recommendation [5], as well as all other filings on the docket in this case, the Court finds that the Report and Recommendation [5] is well-reasoned and finds that it should be adopted. It is therefore ADOPTED IN FULL. The pending Motion to Proceed *In Forma Pauperis* [2] is DENIED, and the claims asserted by Curry are hereby dismissed *without prejudice*. This CASE is CLOSED.¹

SO ORDERED, this the 12th day of August, 2021.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE

¹ Curry also filed another Motion [8] making various requests. That Motion [8] likewise fails to address the insufficiencies noted by Magistrate Judge Sanders. It is DENIED.